measured by the Herfindahl-Hirschman Index ("HHI") is not the appropriate measure of whether the Department should petition the FCC under the Budget Act.

The objection of the Resellers, OCC and AG as to the market structure boils down to a conclusion that, in no current circumstance, should the intent of Congress to preempt rate regulation be fulfilled. Indeed, Resellers' witness Gusky testified that there are absolutely no states with the current two-license wholesale cellular structure in which the National Cellular Resellers Association believes cellular carriers should not be regulated. Tr. at 357-58. Given the FCC's prior decision that the duopoly nature of the cellular wholesale market does not justify rate regulation, and the fact that the Budget Act was enacted with full knowledge of that market structure, the Department should reject requests that it rely on a market structure argument in a petition to the FCC.

Allegation: The absence of a perfectly substitutable service for cellular warrants continued rate regulation of the wholesale carriers.

Response: There are a variety of competitive mobile services available to consumers today including paging services that in some forms provide a substitute to cellular services.[1/] For example, to the extent that paging services permit a cellular user to avoid use of its cellular phone in part or in whole, paging is a competitive service to cellular. Moreover, despite the pessimistic claims of the Resellers, new services such as ESMR, that will be offered in Connecticut by Nextel/MCI and other large companies before they are offered in many other markets nationwide, will provide Connecticut consumers with a substitute for cellular services. In fact, one of the members of the Resellers Coalition is offering an unregulated SMR service today. Tr. at 853-54. In addition, broadband PCS is a broadly defined service that will include among its offerings voice communications.[2/] The use of spectrum auctions to award PCS licenses is expected to accelerate network rollout regardless of the FCC's construction deadlines. Tr. at 391-92.

In an attempt to minimize the imminent competitive effect of Nextel, OCC inaccurately represents the design of the Nextel service as not interoperable. OCC Br. at 31. The record reveals, however, that Nextel will provide an interoperable

[1/] *See* Springwich Br. at 26.

[2/] *See* LF #21 (FCC PCS Order) at ¶¶ 2-3. The OCC's allegation that PCS will not provide a substitute for voice communications is at odds with the FCC's vision of PCS. *Id.*; OCC Br. at 31.

service that will permit end users to reach cellular users and cellular users to reach Nextel users through interconnection with the landline network. Tr. at 394.

Allegation: The cellular carriers' excess switch capacity acts as a barrier to entry.

Response: Springwich's excess switch capacity is entirely consistent with a company operating in a growth industry and seeking to expand the subscriber base of its resale subscribers. The cellular industry has been experiencing tremendous subscriber growth nationwide and double digit subscriber growth in Connecticut. Tr. at 51. In order to accommodate this growth and to anticipate future growth it is reasonable and prudent for cellular wholesale providers to invest in the switching equipment necessary to meet accelerating demand. Springwich also has made the investment in digital switching equipment and will invest in digital cell site equipment that will permit it to expand network capacity and capabilities.

Excess switch capacity in a cellular wholesaler's network is not indicative of a lack of competition as alleged by the AG and the Resellers.[3/] AG Br. at 11-12; Reseller Br. at 5. In the cellular industry, as in the telecommunications industry in general, Dr. Hausman testified that carriers must reasonably plan network expansion in advance, including the installation of additional switching capacity. While at any one moment in time a carrier will naturally have extra capacity, this capacity generally is quickly absorbed by the fast growth rate. As

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[3/] The FCC recently recognized that cellular carriers, which rely on system ubiquity and capacity as an element of service quality, are likely to invest in additional capacity in anticipation of gaining an advantage in the competitive environment. *Second Report and Order* at ¶ 148 and n.304.

Dr. Hausman testified, the quick absorption of excess capacity has been true for cellular services, it has been true for long distance services and is true for any part of telecommunications where large capital investments are required. Tr. at 231.

II. STRUCTURAL SEPARATION

Allegation: The need for stringent structural separation between the wholesale carriers and their retail affiliate warrants continued rate regulation of the wholesale carriers.

Response: Since the inception of the cellular industry, the FCC has refused to require structural separation between the wholesale and retail arms of the licensed cellular carriers.[4/] The FCC has instead relied upon the obligation of wholesale carriers to make services and rate plans available to their retail operations and to unaffiliated resellers on non-discriminatory terms.[5/]

Springwich has maintained strict cost separations between Springwich and its affiliated retail service provider to ensure the accurate allocation of costs. The operational expenses of Springwich, as documented in the audited financial statements provided in this proceeding, accurately reflect Springwich's operating costs. Historic financial information previously provided to the Department has been produced in this proceeding. This information has been audited by a major outside accounting firm and certified as an accurate reflection of Springwich's financial affairs and is in compliance with the Uniform System of Accounts. Springwich's expenses are consistent with Springwich's continuing commitment to investing in its network to expand

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4/ *See Resale Policy Order* at 1726 & n. 74, *aff'd, Cellnet Communications, Inc.* v. *FCC,* 965 F.2d 1106, 1110 (1992).

5/ *See, e.g., Id.* at 1724 (resale policy requires that any volume discounts available to cellular's large retail customers must be available on the same terms and conditions to other resellers).

coverage and ultimately help its resellers increase subscribership through added value. Additionally, this long-term business strategy is consistent with the strategies of other cellular companies and does not reflect inherent inefficiency or an improper allocation of costs.

In its cost accounting, Springwich carefully allocates employee time and facilities based on usage. The FCC's decision not to mandate cellular structural separation between wholesale and cellular carriers demonstrates that the FCC will not find persuasive the unsubstantiated allegations of anti-competitive conduct raised by the Resellers, OCC and AG based on a lack of structural separation.

The Resellers, OCC and the AG nevertheless attempt to construct a claim of competitive harm from the lack of strict structural separation between Springwich's and Metro Mobile/BAM's wholesale and retail operations. In fact, however, they have been able to point to only a few isolated (*i.e.*, three) instances of overlapping management responsibilities. Those instances are not indicative of a pattern of conduct by the companies and clearly do not amount to anti-competitive conduct. *See* LF #8, Attachment B. Indeed, the Resellers themselves acknowledged the limited nature of their claims. Mr. McWay of Connecticut Telephone confirmed Mr. Bluemling's testimony that Springwich has no way of knowing the identity of the Resellers' customers and therefore could not target a reseller's customers specifically or pass such information to their affiliated resale operations. Tr.

at 79, 825-26. In addition, Mr. McWay testified that his conversation with a representative of Springwich, which he alleged was related to Springwich's retail affiliate, was a "limited circumstance." Tr. at 825. The limited circumstances pieced together by the resellers do not rise to the level of anti-competitive conduct. Moreover, each of the wholesale carriers have acknowledged that only once have they each provided information on a wholesale rate plan to their retail affiliate slightly ahead of notifying the other resellers. Tr. at 79, 702-03. Both carriers testified that these were isolated instances and that they otherwise have adhered always to the practice of providing all resellers with information concurrently. Tr. at 79-80, 702-03. No witness was able to point to any other occurrences of such advance notice. Three isolated instances over a ten-year period does not make the carriers' conduct anti-competitive.

In addition, although Springwich and its retail affiliate may share employees and office facilities, there is no evidence in the record of common pricing strategies as alleged by the Resellers or that the costs of facilities are not fairly allocated. Reseller Br. at 25. The testimony cited by the Resellers in support of their claim relates solely to overall business forecasts prepared for Springwich and the retail affiliates. Tr. at 271-72. In addition, as Mr. Bluemling testified, the retail pricing for Linx is generally recommended by the personnel involved in that business. Tr. at 282. The record reveals that while Mr. Bluemling, in his capacity as financial officer, may be consulted to analyze the financial impact of proposed pricing changes developed by retail personnel, there are many instances in which Mr. Bluemling is not consulted at all regarding pricing decisions. *See, e.g.*, Tr. at 283-84.

III. BILLING PRACTICES

Allegation: 1-minute billing increments are excessive.

Response: *(1) The reasonableness of 1-minute billing increments have been approved by the Department and are consistent with the national industry standard.* Springwich's practice of charging air time for cellular calls in 1-minute increments is clearly set forth in its tariff. (*Springwich Tariff*, Part 1, Sheet 10, Section B.1.c.; *Springwich Tariff*, Effective Rate Schedule at p. 1.) These 1-minute billing increments have been in effect since Springwich's first tariff became effective, and continue to apply to all Springwich resellers today with the exception of rates for certain calling features such as call waiting and call forwarding. Tr. at 66.[6]

Indeed, all that the Resellers can point to in support of their allegation that 1-minute billing increments are unreasonable is the fact that, in 1988, Springwich sought and received Department approval to tariff the *option* to implement fractional minute billing. The Department should reject the Resellers' attempt to transmit an *option* into a *requirement*. Far from showing that Springwich's current practice is unreasonable, review of both the tariff and the Department's decision approving it demonstrates that Springwich is, as always, acting in full conformance with its tariff.

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[6] Springwich's policy to bill calls in 1-minute increments also is set forth in its Reseller's Guide which is provided to all resellers who choose to purchase wholesale services from Springwich. *See* LF #27.

Moreover, contrary to the Resellers' allegation of anti-competitive intent, the recognition by Springwich's witness that exercise of the option would have a revenue impact on the company is nothing more than an echo of the very same analysis undertaken by the Department when it approved the tariff. *Re SNET Cellular, Inc.*, Docket No. 87-10-23, 91 PUR 4th 525, 532 (1988) ("*1988 Tariff Decision*"). It should therefore come as no surprise -- and cannot be interpreted as improper -- that any analysis by Springwich as to whether to exercise its option to change its billing increment to meet competition must consider its revenue impact. Indeed, in 1993, the former Chairman of the Department further confirmed Springwich's tariff authority to bill for calls in 1-minute increments and that billing in increments less than one minute would have a revenue impact. *See* LF #24. As recognized by Chairman Leonhardt in that letter, revenue considerations are a valid concern in establishing billing increments. Any contention by the Resellers to the contrary must be rejected. Reseller Br. at 17.

(2) 1-minute billing increments do not result in call charges in excess of the tariffed rates. The Resellers' argument that billing of cellular calls in 1-minute billing increments results in rates higher than the tariffed rate is patently wrong. Springwich's tariff clearly provides for the billing of calls in one minute increments. *See Springwich Tariff*, Part 1, Sheet 10, Section B.1.c.; *Springwich Tariff*, Effective Rate Schedule at p. 1. The Resellers allege that the effective cost of a call that

lasts 1.01 minutes is 100% higher than the actual tariff rate because the call is billed as a 2-minute call. Reseller Br. at 16. The Resellers, however, once again fail to cite to and apply correctly the tariffed rates. Under the tariff, the tariffed rate for the sample call would be two minutes. *Springwich Tariff*, Effective Rate Schedule at p. 1. In addition, the record demonstrates that even when billing increments of less than one minute are used, the Resellers have not necessarily passed these increments on to their customers. Specifically, Escotel Cellular acknowledged that it bills its end users in 1-minute billing increments for calls on the Metro Mobile network that are billed in 30-second increments. *See* LF #22.

(3) *Overlapping calls are often legitimate calls.* The Resellers also seek a blanket credit policy for overlapping calls without any investigation of the legitimacy of the call. OCC contends that the absence of such a policy requires consumers to pay for airtime that was not used. OCC Br. at 11. As a preliminary matter, as demonstrated by Escotel Cellular's practice of billing end users in 1-minute increments regardless of the billing increment used by the wholesale carrier (LF #22), the OCC's concern to protect resellers is misplaced since there is no assurance that a reseller would pass along the savings to its end user. In addition, as the Department is aware, overlapping calls are not unique to 1-minute billing increments. Overlapping calls occur regardless of the billing increments used.

More importantly, however, overlapping calls generally are appropriately and reasonably charged as multiple calls. As Mr. Bluemling testified, a call will appear to be overlapping from a billing perspective when an end user ends and initiates separate calls within the same minute. Tr. at 66; *Springwich Tariff*, Part 1, Sheet 10, Section B.1.c.; *Springwich Tariff*, Effective Rate Schedule at p. 1. These two calls clearly have independent value to the end user and in accordance with the tariff are both properly charged at 1-minute increments. *Id.* In an effort to assist resellers, however, and in applying a policy more liberal than its tariff, Springwich has been willing to give resellers credit for overlapping calls if the reseller shows that it has credited an end user for the call and investigation of the call records reveals that the multiple calls may be attributable to a dropped call. Tr. at 67 (the prerequisite that the reseller demonstrates that a credit has been issued is stated in Springwich's credit policy contained in its Reseller's Guide. *See* LF #27.)

Allegation: Calls to the same number within two minutes should automatically be credited as dropped calls.

Response: Because of the substantial investment which has been (and is continuing to be) made in network improvements, Springwich's dropped call rate averages 1% to 2% -- significantly below the national industry average of 7%. Tr. at 71. Despite the low occurrence of dropped calls, the Resellers and OCC nevertheless contend that blanket credits should be given by the wholesale carriers for calls placed to the same number within two minutes. *See* OCC Br. at 13; Reseller Br. at 16. Indeed, Escotel Cellular classifies 95% of the calls made within a two minute period to be dropped calls. OCC Br. at n.2. Such a blanket policy would be unreasonable.

There are a number of valid reasons why an end user may place a call to the same number within a two minute period as explained to Escotel Cellular in a letter from a Springwich representative submitted into evidence as LF #25. Among the possible explanations for multiple calls to the same number identified in the letter are: (1) multiple calls to directory assistance; (2) calls from a number that has been hotlined at the request of the reseller for collection purposes and results in an end user attempting to redial the same number; (3) multiple incoming calls; (4) odd calling patterns; (5) handset problems; and (6) user error. LF #25. These calls, although made to the same number within minutes or even a single minute do not constitute dropped calls.

If a reseller requests a credit for a dropped call, Springwich will apply its standard credit policy in reviewing the credit request. Springwich's call credit policy clearly states that credit will be given only when the credit is *passed to the reseller's end user*, *see* LF #27 (emphasis added), and that Springwich may have the resellers' records audited to "verify that the credit request was documented and the credit passed on to the end user." *See* LF #25; LF #27. In addition, Mr. Bluemling testified that consistent with this policy, Springwich investigates the call records when a credit request is received to verify that the call actually was dropped. Tr. at 73.

The OCC and AG's allegation that the credit policy creates an "unnecessary barrier" for resellers is unfounded and unsubstantiated. OCC Br. at 17; AG Br. at 17. Springwich's credit policy is applied to credit requests from all resellers, including Linx, Escotel Cellular, and all other resellers. Furthermore, although requested as a late filed exhibit, Escotel Cellular, the sole opponent of Springwich's credit policy, was unable to document for the Department the amount of credits it has passed on to end users. *See* LF #23.

The record is remarkably silent on complaints by resellers other than Escotel Cellular regarding Springwich's credit policy. In addition, Mr. Escobar testified that he has not encountered difficulty with Metro Mobile in obtaining credits, thus demonstrating an alleged competitive difference between the carriers. Metro Mobile Br. at 62. Whether Metro Mobile/BAM undertakes the individual call investigation performed by Springwich as a matter of prudent business and as a means to identify network coverage problems is irrelevant -- but it does show that Mr. Escobar has a competitive alternative to Springwich's policy, and that the marketplace meets that FCC criterion for deregulation.

Allegation: Springwich charges resellers interest in violation of its tariff.

Response: There is no evidence in the record that Springwich has violated its tariff in applying interest charges to reseller bills. Springwich charges interest on all reseller bills pursuant to Section A.2.f. of its tariff. Consistent with the Department's decision, the tariff provides that bills are due when rendered and that interest will be charged on unpaid balances at a rate of 1¼%. *Springwich Tariff*, Section A.2.f.2.; *Southern New England Tel. Co. Tariff Filing to Provide Bulk Domestic Public Cellular Radio Telecommunications Services*. Docket No. 84-08-16, Decision (Jan. 1985) at 6 ("*1985 Tariff Decision*"). One reseller's claim that he was charged "interest on interest" does not contradict the fact that Springwich applied interest on outstanding, overdue balances consistent with the tariff, which provides that interest will be charged on "unpaid balances". *Springwich Tariff*, Section A.2.f.2.

IV. WHOLESALE RATES

Allegation: Springwich's volume discount tariff is discriminatory.

Response: The volume discount rate structure embodied in Springwich's tariff has been found by the Department in two prior dockets to be fair, reasonable, and non-discriminatory.[7/] The FCC also has approved volume discounts by wholesale carriers.[8/] The volume discount tariff is not an anticompetitive practice and will not sustain a petition at the FCC.

Despite the Department's continued rejection of challenges to the structure of Springwich's tariff, the Resellers apparently believe that if something is argued often enough it becomes fact, since they continue to ignore the rulings of the Department and suggest that the tariff is *per se* discriminatory. Reseller Br. at 24. Indeed, the Resellers' characterization of the tariff as discriminatory *per se* -- indeed as *the most discriminatory practice of the carrier* (Tr. at 1065) -- is astonishing because Connecticut Telephone, a member of the Resellers Coalition and the employer of the industry witness put forth by the Resellers in this proceeding, previously urged the Department to approve the very tariff structure of which they now cry foul. *See*

7/ *Application of Springwich Cellular Ltd. Partnership for a Declaratory Ruling Re: Forbearance from Regulation of Rates of Cellular Telephone Mobile Telephone Service*, Docket No. 90-08-03, Decision (Sept. 25, 1991) ("*Forbearance Decision*") at 6; *1988 Tariff Decision* at 532.

8/ *In the Matter of Petitions for FCC Rule Making Concerning Proposed Changes to the Commission's Cellular Resale Policies, Notice of Proposed Rulemaking and Order*, 6 FCC Rcd. 1719, 1724 ("Resale Policy Order").

1988 Tariff Decision at 534-35. In addition, that witness testified that his company has been able to grow its subscribership to take advantage of higher discount levels, thereby rebutting OCC's claim that the volume discount structure suppresses subscriber growth. OCC Br. at 9-10.

Allegation: The wholesale carriers rates are excessive despite Department approval of their tariffs.

Response: The rates of the wholesale carriers have been approved by the Department since its commencement of rate regulation of Springwich in 1984. During this time, the wholesale carriers have never increased their rates even though such authority exists. *See, e.g.,* Tr. at 53. Furthermore, competition between Metro Mobile/BAM and Springwich has resulted in promotional rate plans and price reductions that are ignored by OCC and the Resellers as part of their general exclusion of all evidence of competition in the record.

From 1987 to August 1993, the period identified by OCC as a time of "minimal" price changes, Springwich in fact initiated <u>nine</u> promotional offerings and <u>three</u> permanent rate changes that included lowering of the air time and cellular number rates. *See* Springwich TE-17-11, Attachment B. Since 1990, the monthly rates for cellular numbers have decreased more than 11%. Over the same four years, per minute rates for peak usage have declined more than 15%, and off-peak usage rates have declined 25%. Springwich TE-17-11. Furthermore, during this proceeding Springwich and Metro Mobile have each proposed rate reductions demonstrating the intense competition between Metro Mobile and Springwich even in the midst of a proceeding in which they share a common concern. Indeed, the fierce competition between the carriers is, if anything, likely to intensify as a result of Bell Atlantic's announcement to merge its cellular operations with NYNEX.

Allegation: The wholesale carriers' financial performance *as adjusted by the resellers' witnesses* reveal excessive rates-of-return.

Response: The actual financial data provided by the wholesale carriers reveals that today, as on numerous other occasions when the Department determined that wholesale carriers' rates are based on prudent costs and that the wholesale carriers' rates of return are not excessive, the actual financial results are reasonable. *See Forbearance Decision* at 7; *1988 Tariff Decision* at 540; *1985 Tariff Decision* at 4. Unable to accept the Department's analysis, the resellers' sought and received highly proprietary actual (and, in Springwich's case, audited) financial results of the two companies. When the actual results supported the Department's earlier decisions approving the tariffs, the Resellers were forced to conclude summarily that the calculated returns for the carriers using the actual financial data are too low "to bear resemblance to reality." Reseller Br. at 12. In a remarkable effort to create facts to support a pre-determined conclusion, they then had to go to considerable lengths to manipulate and distort the financial data in order to produce rates of return that support their position.

While it might be expected that the Resellers would resort to these herculean efforts in order to justify their earlier testimony, the Department has no such pre-determined position in this proceeding and must review carefully the evidence upon which it would rely in any petition to the FCC. At the FCC, the Department will bear the burden of proof and, to the extent relied upon in its petition, must present evidence on the rates of return of the carriers. The myriad of manipulations required to support the Resellers' calculated rates of return will be strictly scrutinized by the FCC and are unlikely to pass even the red face test. If the Department chooses to rely on rate of return information, it therefore should rely instead on calculations based on the actual financial data -- which calculations were undertaken by witnesses for all sides and which demonstrate the reasonableness of the actual returns -- and it should disregard the distorted calculations presented by the Resellers.

While Springwich believes that the Department will reject the Reseller calculations on their face, the characterization in the Resellers Brief that their "adjustments" to the actual financial results were "minimal" cannot go unaddressed.[9] These "minimal adjustments," as demonstrated in Springwich's and Metro Mobile/BAM's Briefs are wholly inappropriate, especially for the cellular industry. *See* Springwich Br. at 34; Metro Mobile Br. at 39-44. Indeed, the purported basis of their analysis is the FCC's regulation of landline telephone companies -- a comparison they flatly rejected when questioned as to why they did not undertake an analysis parallel to that used by the Department to calculate the return of local telephone companies. Even then,

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[9] Given this characterization, and their earlier assertion that the burden the Department will face at the FCC is also "minimal", Springwich questions whether the Resellers share the generally accepted definition of that term.

they make adjustments which are not made by the FCC in regulating telephone companies and which, of course, serve to inflate the Resellers' rate of return calculations.

Each of the manipulations by the Resellers witnesses must be rejected:

- First, given the rapid pace of technological change and network expansion in the cellular industry, construction work in progress ("CWIP") cannot be properly excluded from net investment. Indeed, Mr. Lee acknowledged that the exclusion of CWIP for cellular companies is inconsistent with FCC practice which permits the inclusion of CWIP for telephone companies. Tr. at 1456-57. As Mr. Lee conceded, moreover, the exclusion of CWIP also is inconsistent with the Department's policies that permit CWIP to be included in the rate base of Southern New England Telephone Co. Tr. 1482-83; Tr. at 1278-80.

  In their Brief, recognizing that their enthusiasm to find an unreasonable rate of return may have lead to an excess, the Resellers have attempted yet another calculation which includes an allocation for AFUDC at a rate of 15%. This belated attempt at rehabilitation falls far short, however, of curing the many deficiencies in their exclusion of CWIP, let alone the other major plans outlined below.

- Second, again trying to rehabilitate their hearing evidence in their Brief, the Resellers have changed yet again the effective tax rate for Springwich used in their "adjustments" from the 25% manufactured earlier by their witnesses to 30% -- which unfortunately is another artificial number. *See* Reseller Br. at Ex. B. The new tax rate allegedly is based on the annual report of Southern New England Telecommunications Corp. ("SNET"). However, since the actual effective tax rate set forth in the SNET Annual Report[10/] would undermine

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[10/] *See* Southern New England Telecommunications Corporation 1993 Annual Report at 40. The Resellers' witnesses also inappropriately adjusted the tax rate applicable to Metro Mobile. Metro Mobile Br. at 39-40. The Resellers further allege that the effective tax rate rather than the marginal tax rate, is appropriate. As Dr. Hausman testified, the effective and marginal tax rates for SNET are roughly equal. Tr. at 1272. The (continued...)

the Resellers' conclusion that the Springwich return is unreasonable, once again, the Resellers reject actual data -- reported to the Securities and Exchange Commission -- and create their own data which, magically, inflates the Springwich return.[11]

- Third, the Resellers eliminated all amounts for Metro Mobile/BAM investment in deferred cellular license and start-up costs in order to inflate Metro Mobile/BAM's rate of return. Significantly, despite his exclusion of the value of the licenses, Mr. Lee agreed with Dr. Hausman that spectrum is a tangible asset and that if it was paid for it should be permitted in the rate base. Tr. at 1522-23; Metro Mobile Br. at 42-43.

- Fourth, and in Springwich's view the most patently baseless distortion of the actual financial data, was the Resellers' wholesale substitution of Metro Mobile/BAM's expenses for those actually incurred by Springwich. *See* Springwich Br. at 34-35; Reseller Br. at 14. The Resellers cite only two plausible reasons for the differing cost structures of Metro Mobile/BAM and Springwich: inefficiency or improper allocations of cost. Reseller Br. at 14. The Resellers, however, overlook the most obvious and logical reason for the differing cost structures of Springwich and Metro Mobile: Size!

  It should come as no surprise that, to use the example cited by the Resellers' witnesses, Springwich's costs for acquisition and installation of a state-of-the-art billing system substantially exceed those of Metro Mobile/BAM in proportion to overall investment. It is a simple, obvious fact that the cellular service territories of the Bell Atlantic companies exceed by roughly *ten times* the single territory served by Springwich. Springwich Br. at 3-4. The consolidated operations of the Bell Atlantic companies, including

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[10] (...continued)
Resellers thereby create a distinction without a difference. Reseller Br. at 13.

[11] Mr. Lee's tax calculation improperly deducted interest expenses from operating income. Reseller Br. Ex. B at line 4. This has the effect of decreasing expenses and increasing operating income. If the interest is excluded, which is appropriate since Springwich has no interest expense, Tr. at 1605, the tax rate using Lee's calculations would be 40.9% -- coincidentally the percentage set forth on page 40 of SNET's Annual Report.

Metro Mobile/BAM, and the economies of scale that such consolidation would produce, were evident throughout the proceeding. *See, e.g.* Tr. at 445-46 (Metro Mobile does not keep separate Connecticut books); Tr. at 588 (Bell Atlantic does not perform projections solely for Connecticut).

In addition, the Resellers have been unable to demonstrate or even allege any inappropriate allocation of costs between Springwich and the retail affiliate SNET Mobility, Inc. after extensive scrutiny of confidential financial information. Once again, their only "evidence" is their own conclusion that, because the Springwich numbers differ from those of Metro Mobile/BAM, there must be some misallocation. To the contrary, the evidence demonstrates that Springwich has adhered to strict Department and FCC guidelines in making cost allocations. Furthermore, the record demonstrates that, in any event, allocated costs are an insignificant portion of Springwich's costs and that most costs are accounted direct costs to a particular company. Tr. at 1575-76.

- Fifth, the Resellers altered Metro Mobile/BAM's 1994 and 1995 projected returns based on their own optimistic view, not shared by Metro Mobile/BAM, of Metro Mobile/BAM's revenue stream. They claim that this was done to make the revenue figures consistent with prior years. Accuracy and actual results, however, rather than artificial consistency, should guide the Department's analysis of the carriers' rates of return and its decision whether to petition the FCC.